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Superior Court of California, County of San Diego
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Attorneys for Defendant, The Honorable David Rubin, Judge of the Superior Court
of California, County of San Diego

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAYMOND ROBINSON,

Plaintiff,

v.

DAVID RUBIN AND BRIAN
CORNELL,

Defendants.

Case No. 08-CV-0244 W (BLM)

DEFENDANT JUDGE RUBIN'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION TO DISMISS
THE COMPLAINT WITH PREJUDICE

**[No Oral Argument Pursuant to Civil
Local Rule 7.1(d.1)]**

Date : April 1, 2008
Time : 10:30 a.m.
Ctfrm : 7 (3rd Floor)
Judge : The Hon. Thomas J. Whelan

Defendant, The Honorable David Rubin, Judge of the Superior Court of
California, County of San Diego ("California Court"), hereby requests notice of the
following exhibits (see Fed. R. of Evid. 201; and e.g., *Henson v. CSC Cred. Servs.*,
29 F.3d. 280 (7th Cir. 1994) [District Court properly considered public court
documents filed in earlier state court case in deciding defendants' motion to
dismiss, since district court may take judicial notice of matters of public record
without converting rule 12(b)(6) motion into motion for summary judgment]; *In re*
Phillips, 593 F.2d. 356 (8th Cir. 1979) [Bankruptcy judge did not err in taking

1 judicial notice of state court petition against bankrupt in order to determine nature
2 of debt created by resulting default judgment against bankrupt]; *Schweitzer v.*
3 *Scott*, 469 F.Supp. 1017 (C.D. Cal. 1979) [court is empowered to take judicial
4 notice of court files and records]). There is "ample authority . . . which recognizes
5 that matters of public record, including court records in related or underlying cases
6 which have a direct relation to the matters at issue, may be looked to when ruling
7 on a 12(b)(6) motion to dismiss." *Lexecon Inc. v. Milberg Weiss Bershad Hynes &*
8 *Lerach (In re American Continental Corporation/Lincoln S&L Secs. Litig.)*, 102
9 F.3d 1524, 1537 (9th Cir. 1996), rev'd on other grounds, 523 U.S. 26, 140 L. Ed.
10 2d 62, 118 S. Ct. 956 (1998).

11
12 Exhibit A: Request for Judicial Notice, Exhibit A, Engrossed Settled
13 Statement on Appeal filed July 14, 2007, in *People of the State of*
14 *California v. Raymond Robinson*, California Court Case No.
15 Y337174, Appellate Division No. CA206475;

16
17 Exhibit B: Appellant's Opening Brief on Appeal signed September 11,
18 2007, in *People of the State of California v. Raymond*
19 *Robinson*, California Court Case No. Y337174, Appellate
20 Division No. CA206475;

21
22 Exhibit C: Respondent's Brief on Appeal filed September 28, 2007, in
23 *People of the State of California v. Raymond Robinson*,
24 California Court Case No. Y337174, Appellate Division No.
25 CA206475;

1 Exhibit D: Order dated January 18, 2008, in *People of the State of*
2 *California v. Raymond Robinson*, California Court Case No.
3 Y337174, Appellate Division No. CA206475;

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5 Exhibit E: Remittitur filed February 5, 2008, in *People of the State of*
6 *California v. Raymond Robinson*, California Court Case No.
7 Y337174, Appellate Division No. CA206475;

8
9 Exhibit F: Complaint filed February 7, 2008, in *Raymond Robinson v. David*
10 *Rubin and Brian Cornell*, U.S. Dist. Ct., So Dist. Cal., 08-CV-
11 0244 W (BLM).

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13 Respectfully submitted,

14 DARLENE A. DORNAN, Court Counsel
15 Superior Court of California, County of San Diego

16 DATED:

17 February 28, 2008

18 By: s/ Cheryl L. Brierton
19 CHERYL L. BRIERTON, Litigation Attorney
20 Attorney for Defendant, The Honorable David
21 Rubin, Judge of the Superior Court of California,
22 County of San Diego
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